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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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GREGORY N. LEONARD,

v.

TIMOTHY FILSON, *et al.*,

Respondents.

Case No. 2:18-cv-00853-APG-VCF

ORDER

This action is a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by Gregory N. Leonard, a Nevada prisoner sentenced to death.

On May 14, 2018, the court granted petitioner's motion for appointment of counsel, and appointed the Federal Public Defender for the District of Arizona (FPD) as his counsel, subject to notice from the FPD of its ability to represent petitioner. ECF No. 6

On May 15, 2018, the FPD filed notice of its acceptance of representation of the petitioner. ECF No. 7.

On May 18, 2018, the Nevada Attorney General's Office filed a notice of representation of the respondents. ECF No. 9.

Pursuant to Federal Rule of Civil Procedure 16(b), the Rules Governing Section 2254 Cases in the United States District Courts, and Local Rule 16-1, the court sets the following schedule for further proceedings in this action:

1 **1. Amended Petition.** If necessary, petitioner shall file and serve an amended
2 petition for a writ of habeas corpus within 60 days after the entry of this order. The
3 amended petition shall specifically state whether each ground for relief has been
4 exhausted in state court; for each claim that has been exhausted in state court, the
5 amended petition shall state how, when, and where that occurred. If petitioner determines
6 that an amended petition need not be filed, then, within the time for the filing of an
7 amended petition, petitioner shall file and serve a statement to that effect.

8 **2. Response to Petition.** Respondents shall have 60 days following service of the
9 amended petition to file and serve an answer or other response to the amended petition.
10 If petitioner does not file an amended petition, respondents shall have 60 days following
11 the due-date for the amended petition to file and serve an answer or other response to
12 the original petition.

13 **3. Reply and Response to Reply.** Petitioner shall have 45 days following service
14 of an answer to file and serve a reply. Respondents shall thereafter have 30 days
15 following service of a reply to file and serve a response to the reply.

16 **4. Briefing of Motion to Dismiss.** If respondents file a motion to dismiss,
17 petitioner shall have 30 days following service of the motion to file and serve an opposition
18 to the motion. Respondents shall thereafter have 30 days following service of the
19 opposition to file and serve a reply.

20 **5. Discovery.** If petitioner wishes to move for leave to conduct discovery, petitioner
21 shall file and serve such motion concurrently with, but separate from, the response to
22 respondents' motion to dismiss or the reply to respondents' answer. Any motion for leave
23 to conduct discovery filed by petitioner before that time may be considered premature,
24 and may be denied without prejudice on that basis. Respondents shall file and serve a
25 response to any such motion concurrently with, but separate from, their reply in support
26 of their motion to dismiss or their response to petitioner's reply. Thereafter, petitioner shall
27 have 20 days to file and serve a reply in support of the motion for leave to conduct
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1 discovery. If the court grants petitioner leave to conduct discovery, the court will then
2 establish time limits for the completion of the authorized discovery.

3 **6. Evidentiary Hearing.** If petitioner wishes to request an evidentiary hearing,
4 petitioner shall file and serve a motion for an evidentiary hearing concurrently with, but
5 separate from, the response to respondents' motion to dismiss or the reply to
6 respondents' answer. Any motion for an evidentiary hearing filed by petitioner before that
7 time may be considered premature, and may be denied without prejudice on that basis.
8 The motion for an evidentiary hearing must specifically address why an evidentiary
9 hearing is required, and must meet the requirements of 28 U.S.C. § 2254(e). The motion
10 must state whether an evidentiary hearing was held in state court, and, if so, state where
11 the transcript is located in the record. If petitioner files a motion for an evidentiary hearing,
12 respondents shall file and serve a response to that motion concurrently with, but separate
13 from, their reply in support of their motion to dismiss or their response to petitioner's reply.
14 Thereafter, petitioner shall have 20 days to file and serve a reply in support of the motion
15 for an evidentiary hearing.

16 **7. Status Reports and Status Conferences.** The court may from time to time, as
17 the need arises, schedule status conferences, and/or require the filing and service of
18 status reports, in order to manage the progress of this action.

19 IT IS SO ORDERED.

20 Dated: May 18, 2018.

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24 ANDREW P. GORDON,
25 UNITED STATES DISTRICT JUDGE
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